



ATTACHMENT H
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**CITY OF SUNNYVALE
ADMINISTRATIVE HEARING**

**MINUTES
Wednesday, January 15, 2003**

2002-0931 - Application for a Variance from SMC (Sunnyvale Municipal Code) section 19.48.020 to allow a four-foot fence in the driveway vision triangle. The property is located at **722 Santa Rosa Street** in an R-0 (Low-Density Residential) Zoning District. (APN: 205-10-029) RK

In attendance: Dave Walker, Applicant; Gary Borland, Neighbor; Trudi Ryan, Administrative Hearing Officer; Ryan Kuchenig, Project Planner; and, Gloria Barron, Recording Secretary.

Ms. Trudi Ryan, Administrative Hearing Officer, on behalf of the Director of Community Development, explained the format that would be observed during the public hearing.

Ms. Ryan announced the subject application.

Ryan Kuchenig, Project Planner, presented the staff report. He summarized the proposed application and stated that he did not feel the proposal met Sunnyvale Municipal Code or the intent of City-Wide Design Guidelines and therefore recommended denial of the Variance.

Ms. Ryan asked staff if the design of the fence was appropriate. Staff responded that the design was appropriate but the height was not. Ms. Ryan stated that she conferred with Traffic Engineering staff about their field visits and evaluation. She stated that because it is an open fence perhaps visibility would not be impaired.

Ms. Ryan opened the public hearing.

Dave Walker, Applicant, received and reviewed a copy of the staff report. He stated that many homes in the area have fences with the same design and are considered safe. He submitted photographs of fences to the Hearing Officer for review. He noted that a house two doors away was allowed to put up a fence with no permit. He felt his fence was safe and noted that he could see over the fence when he gets in his vehicle. Ms. Ryan asked if he could see when he gets in a sports car. He responded that he would not be able to see but that safety does not come from the fence it comes from the driver. Mr. Walker felt it was not fair that other people could have a fence and he could not.

Gary Borland, Neighbor, stated that he drove around the neighborhood and noticed that there were several house with fences that would be considered to have the vision triangle blocked. He stated that rules were being imposed on them but not everyone else.

Mr. Walker stated that he feels his fence is safe and his neighbors agree the fence is safe.

Ms. Ryan noted that it is important to realize that there could be fences in the neighborhood that were built under previous regulations where there was not a requirement to have the 10 foot vision triangle. Ms. Ryan made a comment to staff to make sure that the information provided to people adding fences is being delivered correctly, understanding there are both Building and Planning permits.

Ms. Ryan was able to make all three Findings for the Variance by stating the following: 1) There are a number of 4 foot high fences in the driveway vision triangle fences and it does not appear to be an increase in Public Safety accidents. She noted it is an open fence and that Traffic Engineering staff had indicated prior to the meeting that there is visibility. The use shows evidence of being unusual because it is not a solid fence. 2) The use itself is extraordinary because it is open and therefore not detrimental to the public welfare if visibility is available. 3) It meets the intent of the ordinance by not granting special privileges not enjoyed by other surrounding property owners.

Ms. Ryan approved the Variance with the Conditions of Approval suggested by staff. She asked staff to take a closer look at houses with front yard fences and make suggestions to Council to look at that in more detail.

Ms. Ryan closed the public hearing.

Ms. Ryan stated that the decision is final unless appealed during the 15-day appeal period.

The meeting was adjourned at 2:30 p.m.

Minutes approved by:

Trudi Ryan, Planning Officer



ATTACHMENT H
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**CITY OF SUNNYVALE
ADMINISTRATIVE HEARING**

**MINUTES
Wednesday, January 15, 2003**

2002-0934 - Application for a Variance from SMC (Sunnyvale Municipal Code) section 19.48.020 to allow a four-foot fence within the driveway vision triangle. The property is located at **718 Santa Rosa Street** in an R-0 (Low-Density Residential) Zoning District. (APN: 205-10-028) RK

In attendance: Gary Borland, Applicant; Dave Walker, Neighbor; Trudi Ryan, Administrative Hearing Officer; Ryan Kuchenig, Project Planner; and, Gloria Barron, Recording Secretary.

Ms. Trudi Ryan, Administrative Hearing Officer, on behalf of the Director of Community Development, explained the format that would be observed during the public hearing.

Ms. Ryan announced the subject application.

Ryan Kuchenig, Project Planner, presented the staff report. He summarized the subject application and was unable to make the required Findings for the Variance and recommended denial of the application.

Ms. Ryan asked staff if the design was appropriate to the site. Staff responded that the applicant notified staff that there was a similar design in Palo Alto. Staff did a site visit and approved of the design however, the height was the main issue. He noted that there is a Condition of Approval recommending that landscaping along the fence be added to mitigate the vinyl chain link look of the fence.

Ms. Ryan opened the public hearing.

Gary Borland, Applicant, stated that he spent a large sum of money having the front yard re-landscaped and added a sprinkler system for future vegetation. Mr. Borland noted that he relied on his previous testimony, from the previous application (722 Santa Rosa Street) regarding the character of the neighborhood to stand. He stated that the fence was 4 feet high to match his neighbor's height line. He stated that he would like to be able to close the gate and have his dogs outside. Mr. Borland noted that he used to have some bushes that were taller than 4 feet and obscuring the vision triangle and never had anyone complain. He also stated that when he is backing out of his driveway he could see vehicles coming or children walking by.

Dave Walker, stated that the neighborhood has really improved since the fences have gone up and that the trend is towards fences with greater security. He also stated that the houses are beautiful and people are taking pride in their homes.

Ms. Ryan closed the public hearing.

Ms. Ryan noted that similar to the previous application she found the use of the fence to be exceptional because it is an open fence design. She stated that based on the testimony of the hearing and an earlier conversation with the traffic staff, which looked at the issue in more depth, she was able to make the first finding. She was able to make the second Finding by stating that it is not a threat to public safety because there is still a visibility maintained. And as she stated in the previous application it is not a grant of special privileges as it is a character that has already been established in the neighborhood both casually and with permits and therefore she was able to make the third Finding.

Ms. Ryan approved the Variance with the Conditions of Approval recommended by staff with a modification to Condition of Approval #2 to assure that the landscaping within the vision triangle complies with the vision triangle requirements.

Ms. Ryan stated that the decision is final unless appealed during the 15-day appeal period.

The meeting was adjourned at 2:37 p.m.

Minutes approved by:

Trudi Ryan, Planning Officer